

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
  
AT HUNTINGTON

WILLIAM J. MEYERS,  
  
Plaintiff,

V.

CIVIL ACTION NO. 3:08-0082

M&G POLYMERS USA, LLC,  
  
Defendant.

**FINDINGS AND RECOMMENDATION**

In this action, initiated by the pro se plaintiff in the Circuit Court of Mason County and removed by the defendant, M&G Polymers USA, LLC, plaintiff, having retired from Shell Chemical Company, a predecessor company of defendant, seeks injunctive and other relief with respect to his retiree health care benefits and life insurance. Defendant's motion to dismiss was previously denied by order entered November 6, 2009 on the basis of a decision of the Court of Appeals for the Sixth Circuit in a class action involving similar issues.<sup>1</sup> Plaintiff now requests that this action be dismissed without prejudice, and defendant has not filed an objection to that request.

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<sup>1</sup>As was noted in the order denying defendant's motion, it appears likely that plaintiff is a member of the putative class in the Ohio federal court.

**RECOMMENDATION**

Perceiving no basis for denying plaintiff's motion, it is **RESPECTFULLY RECOMMENDED** that plaintiff's motion be granted and that this action be dismissed, without prejudice.

Plaintiff and defendant are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with provisions of Rule 72(b), Federal Rules of Civil Procedure, they may, within thirteen days from the date of filing these Findings and Recommendation, serve and file written objections with the Clerk of the Court identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. § 636(b) and the parties are advised that the failure to file timely objections will result in a waiver of their right to appeal from a judgment of the District Court based on such Findings and Recommendation.

The Clerk is directed to file these Findings and Recommendation and mail a copy of the same to plaintiff and all counsel of record.

DATED: November 30, 2009



MAURICE G. TAYLOR, JR.  
UNITED STATES MAGISTRATE JUDGE